

REMARKS

Applicant appreciates the withdrawal of all prior rejections made based on the Chenoweth et al. reference, and responds to address the rejections of all pending claims made in the non-final Office Action mailed June 23, 2008. Amendments to certain of the claims are presented above, including to cancel claims 5-6 and 11-13 and add new claim 51.

In that Action, the Examiner rejects claims 1, 3, 14-15, 17-18, 20, 24, 39, 42, and 47-48 as being anticipated by U.S. Patent Application Publication No. 2003/0060113 to Christie et al. ("Christie"), "as evidenced by the definition of 'mineral wool' from Johnson's New Universal Encyclopedia." Alternatively or in addition, claims 1, 4-6, 11, 39-40, and 47-48 stand rejected as anticipated by U.S. Patent Application Publication No. 2004/0091326 to Spittle ("Spittle").

Pending claim 1 reads on a conformable surfacing veil "consisting essentially of" a plurality of structural fibers selected from the group consisting of metal fibers, carbon fibers, and glass fibers. Each of the plurality of bicomponent fibers has a core substantially surrounded by an outer polymer annulus. According to this claim, the plurality of structural fibers comprise one or more irregularly shaped fibers, said one or more irregularly shaped fibers having a melting point significantly higher than said outer polymer annulus. Consequently, the outer polymer annulus upon being heated at or to the melting point bonds with the structural fibers to form a tough, but flexible and stretchable conformable veil with a softer feel than a comparable veil bonded with an equivalent amount of thermosetting acrylic binder.

Claim 39 more specifically requires that one or more irregularly shaped fibers has a melting point at least 100 degrees Fahrenheit higher than a melting point of the outer polymer annulus, and claim 47 still more specifically requires that the melting point of the outer polymer annulus is at least 100 degrees Fahrenheit lower than a melting point of the core and a melting point of the plurality of structural fibers.

Applicant has carefully reviewed Christie, and finds that its teaching is limited solely to the use of mineral wool, a point with which the Examiner seems to be in agreement. Applicant's claims under rejection as anticipated by Christie all now require that the structural fibers are selected from the group consisting of metal fibers, carbon fibers, and glass fibers. Not only are such fibers not disclosed in Christie, but this reference actually disparages panels made of glass fibers (see ¶¶7-8). Accordingly, the present inventions are believed to patentably distinguish over Christie.

As for Spittle, Applicant observes that it is actually directed to a multi-layered article, in which two layers are bonded together at their interface. One of these layers (called a "mat"), as the Examiner observes, may comprise low melt bicomponent fibers that, when heated, bond with fibers in the adjacent layer (a "lofty grid"). However, there is no disclosure, teaching, or even remote suggestion of using metal, carbon, or glass fibers in combination with bicomponent fibers. Accordingly, Spittle does not disclose the exact same inventions of claims 1, 4-6, 11, 39-40, and 47-48.

In terms of obviousness, neither Spittle nor Christie relates to a surfacing veil for use in forming reinforced articles. Rather, these references relate generally to acoustic panels or turf mats. Thus, nothing in them or otherwise would lead a skilled artisan to make the modification

proposed for the first time by the present Applicant in such a surfacing veil.

As for the rejections of claims 44-46 and 50, the Examiner contends these claims are directed to “obvious” inventions in view of the teachings of Christie in view of U.S. Patent No. 5,571,592 to McGregor et al. (“McGregor”). In making the rejection, the Examiner admits that Christie does not disclose or even remotely mention the claimed microspheres. Accordingly, citation is made to McGregor for a teaching of microspheres.

Applicant respectfully submits that a *prima facie* case of obviousness is lacking because of the complete and total failure of the Examiner to identify any evidence of a reason for using the microspheres of McGregor in the product of Christie. Evidentiary support for a reason for the combination is undoubtedly still a requirement of a *prima facie* case of obviousness. See Memorandum of Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007 (“in formulating a rejection under 35 U.S.C. 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed . . .”) (emphasis added). Furthermore, the reason must have a “rational underpinning.” See *KSR Int'l Co v. Teleflex, Inc.*, 127 S.Ct. 1727, 1742 (2007) and *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329 (Fed. Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).

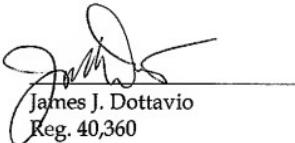
Here, such a reason and the corresponding underpinning is lacking. Instead, the Examiner simply appears to be combining isolated teachings

from disparate references, which has long been assailed in formulating obviousness rejections, as specifically recognized by the Court in the KSR decision. *See KSR Int'l Co v. Teleflex, Inc., supra* ("a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art"). Respectfully, no explanation is provided as to why a skilled artisan would use microspheres to "create a material with improved thermal insulation properties" when Christie is not at all concerned with thermal insulation. Rather, a mere conclusion is provided in support of the rejection. Accordingly, a *prima facie* case of obviousness is lacking.

Finally, Applicant presents new claim 51, which is similar to dependent claim 24. The Examiner contended that claim 24 was anticipated by Christie, but claim 51 requires that the structural fibers comprise fibers besides mineral wool fibers. As noted above, Christie is exclusively limited to mineral wool fibers, and teaches away from the use of other types of fibers, especially those comprising glass. As for Spittle, the Examiner agreed in the previous Action that it did not anticipate the invention of claim 24 or render it obvious. Thus, the allowance of claim 51 is believed to be in order.

Upon careful review and consideration, it is believed the Examiner will agree that all claims are in condition for allowance. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited to avoid the need for bringing this matter before the Board. Authorization is given to charge any fees required to Deposit Account No. 50-0568 in connection with this Amendment document.

Respectfully submitted,



James J. Dottavio
Reg. 40,360

Owens Corning
2790 Columbus Road, Route 16
Granville, Ohio 43023.1200
(740) 321-7167